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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,388	09/22/2003	Richard Gouley	072803300-2	2463

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James E. Parris
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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,388

Applicant(s)

GOULEY, RICHARD

Examiner

Alfred Joseph Wujciak III

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**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-21 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☒ Claim(s) 22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for the serial number 10/668,388 UNIVERSAL SUPPORTIVE SUSPENSION POLE, filed on 9/22/03.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21, drawn to apparatus, classified in class 248, subclass 200.1.
- II. Claim 22, drawn to method, classified in class 29, subclass 592.

Inventions I and II are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case there are various ways of making the apparatus by using the injection molding, steamed rolled, forging or casting.

During a telephone conversation with James Parris on 8/6/04 a provisional election was made without traverse to prosecute the invention of apparatus, claims 1-21. Affirmation of this election must be made by applicant in replying to this Office action. Claim 22 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to because Figure 2 shows 4 different exploded views in one sheet and they require bracket for each views. Figures 3a and 4b also require bracket, see MPEP 608.02 under "Exploded views". Figure 2 shows 5 different views on one sheet and they need to be numbered, see MPEP 608.02 under "(u) Numbering of views". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-16 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11, line 1, "The suspension assembly" should be changed to ---The universal support suspension pole--- for clarification.

Claim 12, line 1, "claim 6" should be ---claim 11--- because "The hollow tubular inserts" is cited in claim 11 not claim 6.

Claim 13, line 1, "claim 1" should be ---claim 12--- because claim 12 cites "first tubular insert" and "said tubular insert hole" which are not cited in claim 1.

Claim 14, line 1, "claim 8" should be ---claim 13--- because claim 8 does not cite "securing mechanism". Claim 13 cites "securing mechanism".

Claim 15, line 1, "claim 1" should be ---claim 11--- because claim 11 cites "tubular insert" which is not cited in claim 1.

Claim 16, line 1, "claim 1" should be ---claim 11--- because claim 1 does not cite "said tubular insert." Claim 11 cites "tubular insert".

Claim 21, line 1, "claim 1" should be changed to ---claim 11--- because claim 11 cites "compression spring" and claim 1 does not cite it.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-11, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 2,937,842 to Meek.

Meek teaches a universal support suspension pole (figure 1) comprising a housing pole (10 having a slidable base pole (12) with a base foot (34) and a slidable top pole (11) with a pivotal attachment (29, col. 2, line 43). The suspension pole includes a suspension (13) that links the top pole to the housing pole. The suspension pole comprises a locking mechanism (33) fixed to the base pole (32, figure 2) for selectively coupling to the housing pole. The pivotal attachment enables buttressing to normal and angled surface. The base foot having promotes friction (col. 2, line 53) to a base surface (floor) and is weighted to facilitate downward sliding action. The base foot has a first end for fixedly attaching to the first end of the base pole and has a second end to buttress a floor. The pole having a base coupler (32-34) that is fixedly attached to the first end of the base pole for optionally fixing the base pole to the housing pole at desirable position inside the housing pole. The pole includes a first hollow tubular insert (20) for fixedly inserting into a first end of a compression spring (13) and further comprises a second hollow tubular insert (25) for fixedly inserting into a second end of the compression spring.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daniel in view of US Patent # 5,979,854 to Lunau et al.

Daniel teaches the universal support suspension pole (figure 2) comprising a housing pole (17) for slidably holding a top pole (16) and for slidably holding a base pole (21). The suspension pole includes a suspension (18) for coupling the top pole, having a side rivet hole (holes where rivet, 19, is mounted therein). The base pole having a base lock (27) for coupling the housing pole. The base pole having a base foot (22) for providing friction between the universal support suspension pole and a floor surface.

Daniel teaches the top pole with a top (15) but fails to teach the top is a pivotal top. Lunau et al. teaches the top pole (36) having pivotal top (32a), it would have been obvious for one of ordinary skill in the art at the time the invention was made to modified Daniel's top with pivotal top as taught by Lunau et al. to provide a pivotal support for convenience of adjusting the pole when it is mounted between the floor and top surface.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meek in view of US Patent # 4,680,683 to Schenke et al.

Meek teaches the tubular insert but fails to teach the tubular insert is a cleaved angle. Schenke et al. teaches the tubular insert is a cleaved angle (18). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Meek's

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tubular insert with cleaved angle as taught by Schenke et al. to provide a convenience for inserting the tubular insert in the spring.

Meek in view of Schenke et al. teaches the tubular insert but fails to teach the tubular insert is made of plastic. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Meek in view of Schenke et al.'s tubular insert to plastic material to reduce cost in manufacturing process.

Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meek.

Meek teaches the housing pole, top pole, base pole and compression spring but fails to teach the housing pole is about 8 feet long, top pole is 2 feet long, base pole is 6 feet long and compression spring is 1 foot long and $\frac{3}{4}$ inches in outside diameter. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Meek's housing pole to 8 feet long, top pole to 2 feet long, base pole to 6 feet long and compression spring to 1 foot long and $\frac{3}{4}$ inches in outside diameter to provide designer's choice of height for entire pole.

Allowable Subject Matter

Claims 12-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to claim 5, the prior art fails to teach a first rivet for inserting in the hole of the top half of the first barbed cylinder and for inserting in the side rivet hole of the top pole and fixedly attaching the top half of the first barbed cylinder inside the top pole; and a second rivet for inserting into the side rivet hole of the second barbed cylinder for inserting in the side rivet hole of the housing pole and fixedly attaching the bottom half of the second barbed cylinder inside of the housing pole. In regard to claims 12-14, the prior art fails wherein the hole is positioned between two winds of the compression spring when the tubular insert is insert therein.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 2,861,767 to Oves et al.

US Patent # 5,979,854 to Lundgren et al.

US Patent # 4,928,916 to Molloy

US Patent # 4,872,634 to Gillaspay et al.

US Patent # 4,576,354 to Blessing, Sr.

US Patent # 3,836,174 to Holman, Jr.

US Patent # 3,882,850 to Elias

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US Patent # 6,508,295 to Whittemore

Oves et al., Lundgren et al., Molloy, Gillaspay et al., Blessing, Sr., Holman, Jr., Elias and Whittemore teach a brace support having spring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred J Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Alfred Joseph Wujciak III
Examiner
Art Unit 3632 *AJW*

9/26/03



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER